



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,631	07/03/2003	Kuansan Wang	M61.12-0521	4356
27366 7590 06/26/2009 WESTMAN CHAMPLIN (MICROSOFT CORPORATION) SUITE 1400 900 SECOND AVENUE SOUTH MINNEAPOLIS, MN 55402				
			EXAMINER YEN, ERIC L.	
			ART UNIT 2626	PAPER NUMBER
			MAIL DATE 06/26/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/613,631

Applicant(s)

WANG, KUANSAN

Examiner

ERIC YEN

Art Unit

2626

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 09 June 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because:
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1, 5-29, 32-38.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Richmond Dorvil/
Supervisory Patent Examiner, Art Unit 2626

Continuation of 11, does NOT place the application in condition for allowance because: Applicant argues that paragraph 15 of Williams does not teach combined SALT and VXML programming, because paragraph 15 refers to IVR SYSTEMS and also that the sentence states that some systems in a group of systems use only one of VoiceXML or SALT (Amendment, page 9). The examiner respectfully disagrees, because that defeats the entire use of "and/or". If it were the case that paragraph 15 refers to a system using only one language, then it would be stated that the systems can be programmed using VXML OR SALT, etc. Generally, using "and/or" in a sentence provides for each and every combination of the elements in the list being used to implement the system. Therefore, since Williams deliberately used "and/or", it is reasonable to infer that Williams did not want to confine the scope of his disclosure to only systems implemented using one markup language. Applicant's interpretation of the passage meaning a group of systems each being programmed with one language is a valid one because it falls within the scope of "and/or", but it is not the only reasonable way to read the passage. One of ordinary skill in the art could easily understand that a system in the group of systems can use more than one language if the systems can (each) be programmed using VXML AND other speech/voice-capable markup languages.

The fact that, as applicant argues (Amendment, page 9), Williams says that "A voice-capable markup application... A VXML, SALT, OR CCML application, can include one or more text documents" in the same paragraph does not limit the scope to only one language per application. This statement, includes "for example" which means that the description does not exclude other possibilities, such as an application/system that uses more than one language (VXML and/or SALT).

Even though the term "voice-capable markup language" refers to only one of a variety of extensible markup languages and that the invention applies equally well to other embodiments using any voice-capable markup language (Amendment, page 9), the fact that Williams says "markup language" (singular) at the end of paragraph 35 does not mean that his teaching is confined to only single language embodiments. Williams only clarifies that his disclosure is not limited to only VXML applications. A statement that his disclosure is not limited and applies to other things does not mean that his disclosure necessarily excludes everything other than those other things (where other things are embodiments using another voice-capable markup language).

Applicant argues that Williams, even if he does teach a combination of languages, does not describe how two programming languages could be combined, and especially does not teach embedding SALT tags within a VoiceXML module (Amendment, page 9-10). Applicant then argues that Williams only discloses an IVR system using one type of voice-capable markup language and does not reference embedding (Amendment, page 10). However, the fact that Williams does not specifically describe the details of a combination embodiment does not mean that the embedding of SALT tags in a VXML is not readily apparent to one reading his disclosure. Programming, as generally known, involves generating a text file with the corresponding markup language tags (e.g., <HTML>, etc.) The tags themselves help a computer to parse certain text written in a particular language, and are obvious, if not necessary, components of a markup language document. Therefore, if there is a document/application/etc. that uses one markup language AND another language, as taught by Williams, one of ordinary skill in the art would know that the corresponding tags for BOTH languages must appear in the text file. Therefore, a text file including VXML and SALT components could be interpreted as a VXML module/document/application/etc. embedded with SALT tags (since it also includes SALT markup language).

Applicant then argues that the cited prompts are part of a call flow and do not teach temporal triggers. The examiner respectfully disagrees because a call flow is based entirely on when to do what (e.g., when to output an error prompt for a timeout). A user's input voice which occurs after a prompt could also be a temporal trigger because it occurs after a prompt for a voice input and results in a further action (triggers the further action).

Applicants arguments to Claims 19 and 27 are similar to those discussed above, and also do not explain why the limitations argued are not taught, and so they amount to a general allegation of patentability.